

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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COMMERCE COMMISSION

2007 DEC 17 A 11:00 *ms*

Steven B. Pollack

-vs-

Commonwealth Edison Company

Complaint as to billing/charges in
Highland Park, Illinois.

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07-0511
CHIEF CLERK'S OFFICE

RESPONDENT'S MOTION TO DISMISS

Now comes the Respondent, Commonwealth Edison Company ("ComEd" or "Respondent"), by and through its attorney, Mark L. Goldstein, and moves the Administrative Law Judge and the Illinois Commerce Commission ("Commission") to dismiss, with prejudice, the complaint filed by Steven B. Pollack ("Complainant") against the Respondent on October 15, 2007.

BACKGROUND

In his complaint, Complainant alleges that ComEd has violated Article VIII of the Illinois Public Utilities Act, 220 ILCS, in that the Respondent has failed to accept Complainant's check or credit card in payment of his electric bills. Complainant acknowledged that around September 2006 he made a payment for electric service with a non-sufficient funds (NSF) check. (Paragraph 2, Statement of Facts) Complainant contends that he is only allowed to pay his electric bill on a cash only basis. Complainant contends that since ComEd accepts bill payment by credit card from other customers, ComEd's actions are punitive, unjust and unreasonable as applied against him and violate Article VIII aforementioned. Specifically, Complainant contends that ComEd has violated the specific section of Article VIII, Section 8-101 (220 ILCS 5/8-101) which states: "All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable."

ARGUMENT

1. In his complaint, Complainant has failed to state that the Respondent violated any specific section of the Commission's rules, or Respondent's tariffs. Generally, how customers pay for electric service rendered by a public utility is not covered in the Illinois Public Utilities Act, the Commission's rules or any electric utility's tariffs. Specifically, the treatment of NSF check payments by Respondent is not part of any Commission rule, or part of Respondent's tariffs on file with the Commission.
2. Respondent's internal credit policy regarding "Cash Only" is set forth on Respondent's Exhibit "A" attached hereto and made a part hereof.

3. Since Respondent's Cash Only policy is not part of any rule, regulation or tariff on file with the Commission, there is no Commission requirement that the Cash Only policy be part of any Commission filing.

4. Attached is the Affidavit of Edward Vaughn of ComEd, Respondent's Exhibit "B," setting forth that the Cash Only policy is applied uniformly and without discrimination to all ComEd customers who have two bill payment checks returned NSF within a twelve month period.

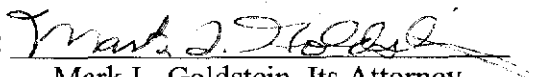
5. As set forth in Mr. Vaughn's Affidavit and the screen prints attached thereto, Complainant had two checks in payment of electric bills returned within a twelve month period, August 23, 2006 and November 20, 2006, respectively.

6. Based upon the foregoing, the complaint filed by Steven B. Pollack against ComEd should be dismissed with prejudice.

CONCLUSION

The Respondent, Commonwealth Edison Company, respectfully requests that the complaint filed by Steven B. Pollack against Commonwealth Edison Company on October 15, 2007 be dismissed with prejudice.

Respectfully submitted,
Commonwealth Edison Company

By: 
Mark L. Goldstein, Its Attorney

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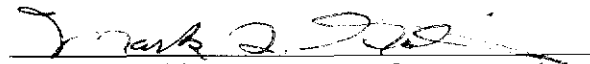
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NOTICE OF FILING

TO: Parties on Certificate of Service

PLEASE TAKE NOTICE that on December 14, 2007, I filed with the Chief Clerk of the Illinois Commerce Commission Respondent's Motion to Dismiss, attached hereto, a copy of each is hereby served upon you.


Mark L. Goldstein, Attorney for Respondent
108 Wilmot Road, Suite 330
Deerfield, IL 60015
(847) 580-5480


CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2007, I served a copy of Respondent's Motion to Dismiss, by causing copies thereof to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties as indicated below:

Ms. Elizabeth A. Rolando
Chief Clerk.
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Ms. Leslie Haynes
Administrative Law Judge
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601

Mr. Steven B. Pollack
3390 Commercial Avenue
Northbrook, IL 60062


Mark L. Goldstein